

1441 Main Street, Suite 300 Columbia, SC 29201

Main Line (803) 737-0800 Legal Department: (803) 737-0877

December 28, 2006

FLORENCE P. BELSER GENERAL COUNSEL

VIA EFILING AND HAND DELIVERY

Mr. Charles L.A. Terreni Chief Clerk/Administrator **South Carolina Public Service Commission** 101 Executive Center Dr., Suite 100 Columbia, SC 29210

Re:

Petition of the Office of Regulatory Staff Regarding Wyboo Plantation

Utilities, Inc.'s Collection and Charging of Unauthorized and Unapproved

Rates

PSC Docket No.: 2006-327-WS

Enclosed for filing please find the original and one (1) copy of the Amended Petition of the Office of Regulatory Staff.

Please note that the attached documents are exact duplicates, with the exception of the form of the signature, of the e-filed copy submitted to the Commission in accordance with its electronic filing instructions.

Please date stamp the one extra copy for our office and return it to me via our courier.

Please let me know if you have any questions.

Sincerely,

Wendy B. Cartledge

Wendy B. Cartledge

WBC/pjm Enclosures

BEFORE

THE PUBLIC SERVICE COMMISSION

OF SOUTH CAROLINA

DOCKET NO. 2006-327-WS

December 28, 2006

Office of Regulatory Staff, Petitioner, v. Wyboo Plantation Utilities, Inc. Respondent.))))	AMENDED PETITION OF THE OFFICE OF REGULATORY STAFF
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Pursuant to 26 S.C. Code Ann. Regs 103-839 of the Regulations of the Public Service Commission of South Carolina ("Commission"), the Office of Regulatory Staff ("ORS") hereby supplements its pleading by filing this Amended Petition. ORS reaffirms paragraphs 1 through 7, modifies paragraphs 8 through 10 of the original Petition and adds paragraphs 11 through 14. ORS would respectfully show and request of the Public Service Commission of South Carolina ("Commission"):

1. That the Commission is a state agency constituted pursuant to the laws of the State of South Carolina with its business offices located in Columbia, South Carolina vested with the responsibility for the regulation of water and sewerage utilities operating for compensation as set forth in S. C. Code Ann. §58-5-10 et seq. (Supp. 2005).

¹ Paragraph 9 of the original Petition is restated as Paragraph 11 in the Amended Petition. Paragraph 9 in the Amended Petition adds an allegation with respect to the DHEC Safe Drinking Water fee. Paragraph 10 of the Amended Petition adds an allegation with respect to customer deposits. Paragraph 12 of the Amended Petition modifies Paragraph 10 of the original Petition. Paragraph 13 includes additional allegations and Paragraph 14 seeks additional relief.

- 2. That the ORS is charged by law with the duty to represent the public interest of South Carolina in matters before the South Carolina Public Service Commission pursuant to S.C. Code Ann. §58-4-10 et seq. (Supp. 2005). As contained in Title 58, Chapter 4 regarding the ORS, "public interest" means
 - a balancing of the following:
 - (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
 - (2) economic development and job attraction and retention in South Carolina; and
 - (3) preservation of the financial integrity of the state's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.
- S.C. Code Ann. §58-4-10(B) (1) through (3) (Supp. 2005).
- 3. That Wyboo Plantation Utilities, Inc. ("Wyboo") is a public utility, as defined by S. C. Code Ann. §58-5-10(3) (Supp. 2005), providing water and sewer service to the public for compensation in certain areas of South Carolina pursuant to rates approved by the Commission in Docket No. 96-227-W for water service and Docket No. 97-391-S for sewer service and is therefore a public utility subject to the jurisdiction of the Commission.
- 4. In Order No. 96-757 dated November 1, 1996 in Docket No. 96-227-W, the Commission approved Wyboo to charge a monthly water usage rate of \$18.00 per month and an irrigation usage rate (for the months of April through September only) of \$10.00 per month. No water tap fees were approved by the Commission in this Order or in any subsequent Commission orders. A copy of the rates approved by the Commission is attached hereto as Exhibit 1.
- 5. In Order No. 98-33 dated January 19, 1998 in Docket No. 97-391-S, the Commission approved Wyboo's monthly sewer usage rate of \$20.00 per month and a sewer tap

fee of \$500.00. A copy of the sewer rates approved by the Commission is attached hereto as Exhibit 2.

- 6. ORS, while conducting an audit of Wyboo, has obtained information indicating that Wyboo has charged water tap fees, impact fees, cut-on fees, cut-off fees, and "illegal water use" fees of certain customers although no water tap fee, impact fee, cut-on fee, cut-off fee, or "illegal water use" fee have been approved by the Commission. As an example, sample bill registry information for Wyboo's customers containing these fees is attached hereto as Exhibit 3.
- 7. ORS also has information that Wyboo has charged certain customers sewer tap fees in excess of the \$500.00 sewer tap fee approved by the Commission. Sample bill registry information for Wyboo's customers illustrating sewer tap fees charged in excess of the amount approved by the Commission is attached hereto as Exhibit 4.
- 8. ORS has also identified that Wyboo has charged certain customers a "DHEC sewer fee" in the amount of \$2.50 per month from November 2003 to March 2004. DHEC statutes and regulations do not authorize the collection of a DHEC sewer fee. Further, the Commission has not approved such a rate. As an example, sample bill registry information for Wyboo's customers listing the identified unauthorized DHEC sewer fees is attached hereto as Exhibit 5.
- 9. Wyboo's records indicate that it has charged certain customers a DHEC Safe Drinking Water fee in excess of the amount invoiced by DHEC to Wyboo. Pursuant to S.C. Code Ann. §44-55-120 (2000), a water system may increase water rates to each service connection by an amount necessary to recover the cost of the safe drinking water fee without seeking approval of the Commission. The total funds generated from rate increases to service

connections for the purpose of paying the safe drinking water fee may not exceed the amount of the established fee. DHEC provides Wyboo with a Drinking Water Annual Billing in July of each year. The billing period runs from July 1 through June 30 of the subsequent year. Wyboo has charged fees in excess of the amount authorized by DHEC in its Drinking Water Annual Billing. Copies of the DHEC invoices and sample bill registry information for Wyboo's customers illustrating the annual Safe Drinking Water Fee charged are attached hereto as Exhibit 6.

- 10. ORS has identified that Wyboo has not properly returned deposits collected from customers of Wyboo. Pursuant to 26 S.C. Code Ann. Regs. 103-531.5 through 103-531.7 and 26 S.C. Code Ann. Regs. 103-731.5 through 103.731.7, all deposits must be returned to the customer, credited to the customer's account, and/or managed in accordance with state law. As an example, sample bill registry information for Wyboo's customers listing the identified deposits and the improper management of the deposits is attached hereto as Exhibit 7.
- 11. S.C. Code Ann. §58-5-210 (1976) vests the Commission with the "power and jurisdiction to supervise and regulate the rates and service of every public utility in this State ..."
- 12. Pursuant to 26 S.C. Code Ann. Regs. 103-702.14, 103-703, 103-502.11 and 103-503, Commission approval must be obtained prior to collecting tap fees or any other rates for service. Upon information and belief, Wyboo has violated these regulations. As illustrated in Exhibit 3, Wyboo has charged and collected water tap fees, impact fees, cut-on fees, cut-off fees, and "illegal water use" fees without having obtained Commission approval. Exhibit 4 illustrates sample bill registry information regarding the sewer tap fees charged and collected in excess of the amount approved by the Commission. Exhibit 5 depicts sample bill registry

information regarding the unauthorized DHEC sewer fees charged and collected by Wyboo. Exhibit 6 depicts the DHEC Drinking Water Annual Billing invoices and the amounts paid by Wyboo customers. Exhibit 7 depicts sample bill registry information regarding the improper management of Wyboo's customers' security deposits.

- 13. Wyboo has allowed Wrigley & Associates, Inc., an unregulated affiliated company of Wyboo by virtue of common ownership, to collect water and sewer tap fees that should be properly paid to Wyboo. Upon information and belief, certain customers were unable to receive regulated services from Wyboo until payments for these fees were made to Wrigley & Associates, Inc. It appears that Wyboo has allowed an affiliated unregulated company to collect unapproved tap fees and other unapproved rates. Exhibit 8 depicts the payments made to Wrigley & Associates for tap fees and other rates and correspondence from Wyboo indicating payments should be made to Wrigley & Associates.
- 14. Given the nature of the allegations and because ORS is unable to identify all Wyboo customers who may have been affected by Wyboo's actions, ORS respectfully requests that the Commission require Wyboo to notify all customers of this proceeding in order that Wyboo customers may intervene as a party in this docket.

WHERFORE, ORS prays that the Honorable Commission:

1. Provide to ORS and other interested parties an opportunity to submit evidence regarding Wyboo's practices of charging and collecting unauthorized and unapproved rates and/or charges in the form of water tap fees, impact fees, illegal water use fees, cut-on fees, cut-off fees, sewer tap fees, DHEC sewer fees, and/or any other rates or charges not approved and authorized by the Commission;

2. Provide to ORS and other interested parties an opportunity to submit evidence

regarding Wrigley & Associates collecting tap fees that should have been paid to Wyboo;

3. Require Wyboo to directly notify all affected customers of this pending action

and the deadlines contained in the Notice of Filing and provide Proof of Mailing to the

Commission.

4. Require Wyboo to submit an answer to this Amended Petition within the

deadlines prescribed by the Commission's rules and regulations;

5. Require Wyboo to adjust its customers' bills pursuant to 26 SC Code Ann. Regs.

103-533 and 26 SC Code Regs; 103-733; and

6. Require any additional action or relief which the Commission may deem

necessary.

Wendy B. Cartledge

Wendy B. Cartledge, Esquire C. Lessie Hammonds, Esquire Office of Regulatory Staff

1441 Main Street, Suite 300

Columbia, SC 29201

Phone: (803) 737-0800

Facsimile: (803) 737-0895 wcartle@regstaff.sc.gov lhammon@regstaff.sc.gov

December 28, 2006

6

EXHIBIT 1

APPENDIX A

ROUTE 4 BOX 693 MANNING, S.C. 29102 (803) 478-7889

FILED PURSUANT TO DOCKET NO. 96-227-W - ORDER NO. 96-757

THE SCHEDULE OF WATER RATES AND CHARGES ARE AS FOLLOWS:

MONTHLY WATER USAGE RATE

\$18.00 per month

MONTHLY IRRIGATION USAGE RATE (April through September only)

\$10.00 per month

EXHIBIT 2

DOCKET NO. 97-391-S - ORDER NO. 98-33 JANUARY 19, 1998 PAGE 7

APPENDIX A

WYBOO PLANTATION UTILITIES, INC ROUTE 4, BOX 693 317 PLANTATION DRIVE MANNING, SC 29102 1 (800) 951-2605

FILED PURSUANT TO DOCKET NO. 97-391-S – ORDER NO 98-33 EFFECTIVE DATE: JANUARY 19, 1998

THE SCHEDULE OF SEWER RATES AND CHARGES ARE AS FOLLOWS:

Monthly Sewer Usage Rate

\$ 20.00

Tap Fee

- \$ 500.00

EXHIBIT 3

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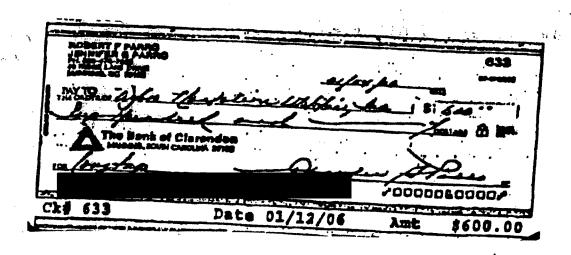


EXHIBIT 4

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EXHIBIT 5

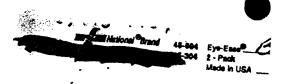


Exhibit 5 Page 1

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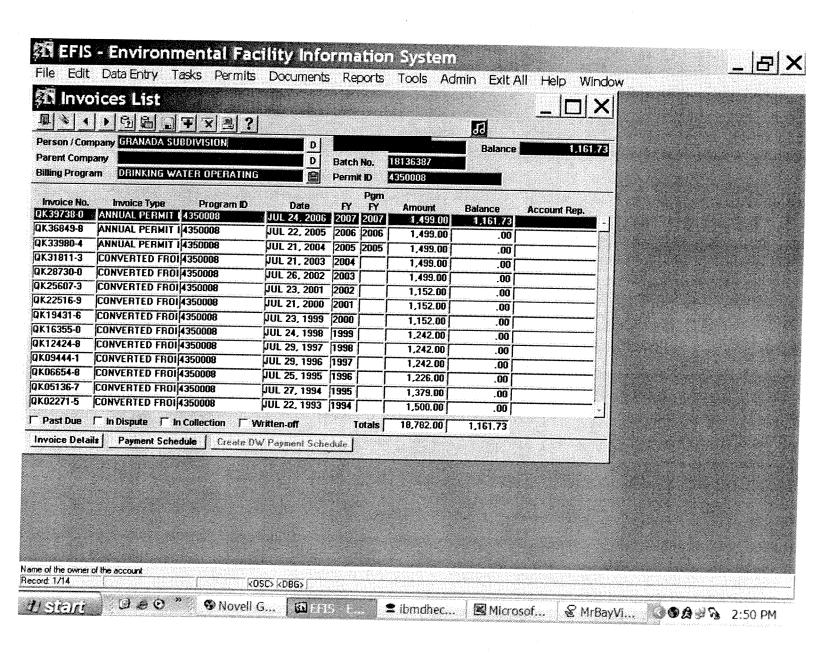
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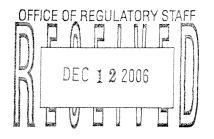
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Exhibit 6







WYBOO PLANTATION UTILITIES **GRANADA SUBDIVISION** PO BOX 2099 SUMTER SC 29151

Environmental Quality Control

2600 Bull Street Columbia, SC 29201

Drinking Water Annual Billing

Invoice Date:

07/24/2006

Invoice Number: Invoice Amount:

QK39738-0 \$1,499.00

Program ID:

4350008

Billing Period:

07/01/2006

Through

06/30/2007

Qty	Description	Unit Price	Extended
1	Annual Fee for Community	1,499.00	1,499.00
			2,155.00
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	Total		\$1,499.00

South Carolina Department of Health and Environmental Control

Facility Name:

GRANADA SUBDIVISION

Program ID:

4350008

Invoice Number:

QK39738-0

Amount Remitted: \$

DEC 1 2 2006

To ensure proper credit, please return this portion of the invoice with your payment including the invoice number on your remittance. Internet payments by credit card/check can also be made by going to WWW.DHEC.SC.GOV and clicking on the "Invoice Payments" bullet. Change of address and credit card payment forms are on the reverse side of this invoice. Payment is due upon receipt GULATORY STAFF

SC DHEC Attn: Bureau of Financial Management PO Box 100103 Columbia, SC 29202-3103



Environmental Quality Control

2600 Bull Street Columbia, SC 29201

Drinking Water Annual Billing

WYBOO PLANTATION UTILITIES GRANADA SUBDIVISION PO BOX 2099 SUMTER SC 29151 Invoice Date: 07/22/2005
Invoice Number: QK36849-8
Invoice Amount: \$1,499.00
Program ID: 4350008
Billing Period: 07/01/2005
Through 06/30/2006

Qty	Description	Unit Price	Extended
1	Annual Fee for Community	1,499.00	1,499.00
	Total		\$1,499.00

South Carolina Department of Health and Environmental Control

Facility Name:

GRANADA SUBDIVISION

Program ID:

4350008

Invoice Number:

QK36849-8

Amount Remitted: \$

To ensure proper credit, please return this portion of the invoice with your payment to the address below. Please include the invoice number on your remittance. Change of address and credit card payment forms are on the reverse side. PAYMENT DUE UPON RECEIPT.

PAST DUE 30 DAYS FROM INVOICE DATE.

SC DHEC

Attn: Bureau of Finance

PO Box 100103

Columbia, SC 29202-3103

ATTENTION: PUBLIC WATER SYSTEM OWNERS/OPERATORS



WYBOO PLANTATION UTILITIES GRANADA SUBDIVISION PO BOX 2099

SUMTER SC 29151

Environmental Quality Control

2600 Bull Street Columbia, SC 29201

Drinking Water Annual Billing

Invoice Date:

07/21/2004

Invoice Number: Invoice Amount:

QK33980-4 \$1,499.00

Program ID:

4350008

Billing Period:

07/01/2004

Through

06/30/2005

Qty	Description	Unit Price	Extended
1	Annual Fee for Community	1,499.00	1,499.00
	Total		\$1,499.00

South Carolina Department of Health and Environmental Control

Facility Name:

GRANADA SUBDIVISION

Program ID: Invoice Number:

4350008

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Amount Remitted: \$

OFFICE OF REGULATORY STAFF

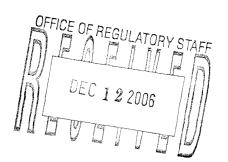
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To ensure proper credit, please return this portion of the invoice with your payment to the address below. Please include the invoice number on your remittance. Change of address and credit card payment forms are on the reverse side. **PAYMENT DUE UPON RECEIPT.**

PAST DUE 30 DAYS FROM INVOICE DATE.

SC DHEC Attn: Bureau of Finance PO Box 100103 Columbia, SC 29202-3103

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WYBOO PLANTATION UTILITIES CEDAR HILL MHP PO BOX 2099

SUMTER SC 29151

Environmental Quality Control

2600 Bull Street Columbia, SC 29201

Drinking Water Annual Billing

Invoice Date:

07/24/2006

Invoice Number: Invoice Amount:

QK39213-4

Program ID:

\$1,030.00 4360010

Billing Period:

07/01/2006

Through

06/30/2007

Qty	Description	Unit Price	Extended
1	Annual Fee for Community	1,030.00	1,030.00
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	Total		\$1,030.00

South Carolina Department of Health and Environmental Control

Facility Name:

CEDAR HILL MHP

Program ID:

4360010

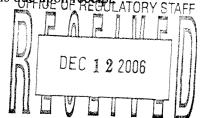
Invoice Number:

QK39213-4

Amount Remitted: \$

To ensure proper credit, please return this portion of the invoice with your payment including the invoice number on your remittance. Internet payments by credit card/check can also be made by going to <u>WWW.DHEC.SC.GOV</u> and clicking on the "Invoice Payments" bullet. Change of address and credit card payment forms are on the reverse side of this invoice. Payment is due upon receipt at ORY STAFF

SC DHEC Attn: Bureau of Financial Management PO Box 100103 Columbia, SC 29202-3103





Environmental Quality Control

2600 Bull Street Columbia, SC 29201

Drinking Water Annual Billing

WYBOO PLANTATION UTILITIES CEDAR HILL MHP PO BOX 2099 SUMTER SC 29151

Invoice Date: 07/22/2005 Invoice Number: QK36329-1 Invoice Amount: \$1,480.00 Program ID: 4360010 Billing Period: 07/01/2005 Through 06/30/2006

Qty	Description	Unit Price	Extended
1	Annual Fee for Community	1,480.00	1,480.00
			,
	·		
	Total		
	Total		\$1,480.00

South Carolina Department of Health and Environmental Control

Facility Name:

CEDAR HILL MHP

Program ID: Invoice Number:

4360010

QK36329-1

Amount Remitted:

DEC 1 2 2006

To ensure proper credit, please return this portion of the invoice with your payment to the address below. Please include the invoice number on your remittance. Change of address and credit card payment forms are on the reverse side. PAYMENT DUE UPON RECEIPT. OFFICE OF REGULATORY STAFF

PAST DUE 30 DAYS FROM INVOICE DATE.

SC DHEC Attn: Bureau of Finance PO Box 100103 Columbia, SC 29202-3103

ATTENTION: PUBLIC WATER SYSTEM OWNERS/OPER



Environmental Quality Control

2600 Bull Street Columbia, SC 29201

Drinking Water Annual Billing

WYBOO PLANTATION UTILITIES CEDAR HILL MHP PO BOX 2099 SUMTER SC 29151 Invoice Date: 07/21/2004
Invoice Number: QK33463-1
Invoice Amount: \$1,480.00
Program ID: 4360010
Billing Period: 07/01/2004
Through 06/30/2005

Qty	Description	Unit Price	Extended
1	Annual Fee for Community	1,480.00	1,480.00
	·		
	·	·	
	Total		\$1,480.00

South Carolina Department of Health and Environmental Control

Facility Name:

CEDAR HILL MHP

Program ID:

4360010

Invoice Number:

QK33463-1

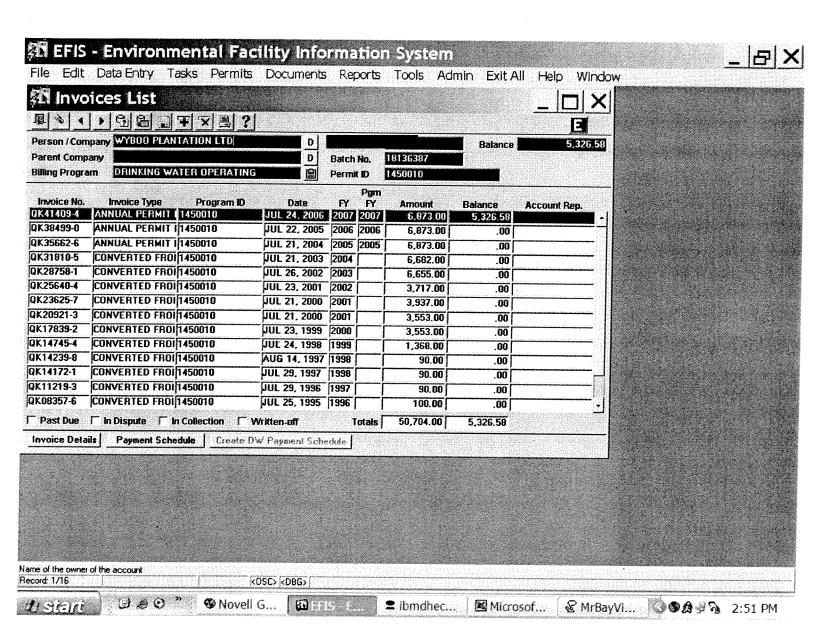
Amount Remitted:

To ensure proper credit, please return this portion of the invoice with your payment to the address below. Please include the invoice number on your remittance. Change of address and credit card payment forms are on the reverse side. PAYMENT DUE UPON RECEIPT. PAST DUE 30 DAYS FROM INVOICE DATE.

SC DHEC Attn: Bureau of Finance PO Box 100103 Columbia, SC 29202-3103









South Carolina Department of Health and Environmental Control

Environmental Quality Control

2600 Bull Street Columbia, SC 29201

Drinking Water Annual Billing

MARK WRIGLEY WYBOO PLANTATION LTD WYBOO PLANTATION UTILITIES INC PO BOX 2099 SUMTER SC 29151

Invoice Date: 07/24/2006 Invoice Number: QK41409-4 Invoice Amount: \$6,873.00 Program ID: 1450010 Billing Period: 07/01/2006 Through

06/30/2007

Qty	Description	Unit Price	Extended
1	Annual Fee for Community	6,873.00	6,873.00
			:
	Total		\$6,873.00

South Carolina Department of Health and Environmental Control

Facility Name:

WYBOO PLANTATION LTD

Program ID:

1450010

Invoice Number:

QK41409-4

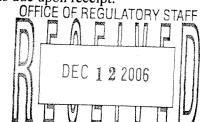
Amount Remitted:

To ensure proper credit, please return this portion of the invoice with your payment including the invoice number on your remittance. Internet payments by credit card/check can also be made by going to WWW.DHEC.SC.GOV and clicking on the "Invoice Payments" bullet. Change of address and credit card payment forms are on the reverse side of this invoice. Payment is due upon receipt.

SC DHEC

Attn: Bureau of Financial Management PO Box 100103

Columbia, SC 29202-3103





South Carolina Department of Health and Environmental Control

MARK WRIGLEY WYBOO PLANTATION LTD POST OFFICE BOX 2099 SUMTER SC 29151

Environmental Quality Control

2600 Bull Street Columbia, SC 29201

Drinking Water Annual Billing

Invoice Date:

07/22/2005

Invoice Number: Invoice Amount:

QK38499-0 \$6,873.00

Program ID:

1450010

Billing Period:

07/01/2005

Through

06/30/2006

Qty	Description	Unit Price	Extended
1	Annual Fee for Community	6,873.00	6,873.00
	Total		\$6,873.00

South Carolina Department of Health and Environmental Control

Facility Name:

WYBOO PLANTATION LTD

Program ID:

1450010

Invoice Number:

QK38499-0

Amount Remitted:

\$

To ensure proper credit, please return this portion of the invoice with your payment to the address below. Please include the invoice number on your remittance. Change of address and credit card payment forms are on the reverse side. **PAYMENT DUE UPON RECEIPT.**

PAST DUE 30 DAYS FROM INVOICE DATE.

SC DHEC

Attn: Bureau of Finance

PO Box 100103

Columbia, SC 29202-3103

ATTENTION: PUBLIC WATER SYSTEM OWNERS/OFE





South Carolina Department of Health and Environmental Control

Environmental Quality Control

2600 Bull Street Columbia, SC 29201

Drinking Water Annual Billing

MARK S WRIGLEY WYBOO PLANTATION LTD PO BOX 780 MANNING SC 29102 Invoice Date: 07/21/2004
Invoice Number: QK35662-6
Invoice Amount: \$6,873.00
Program ID: 1450010
Billing Period: 07/01/2004
Through 06/30/2005

Qty	Description	Unit Price	Extended
1	Annual Fee for Community	6,873.00	6,873.00
	Total		\$6,873.00

South Carolina Department of Health and Environmental Control

Facility Name:

WYBOO PLANTATION LTD

Program ID:

1450010

Invoice Number:

QK35662-6

Amount Remitted: \$

OFFICE OF REGULATORY STAFF

DEC 1 2 2006

To ensure proper credit, please return this portion of the invoice with your payment to the address below. Please include the invoice number on your remittance. Change of address and credit card payment forms are on the reverse side. **PAYMENT DUE UPON RECEIPT.**

PAST DUE 30 DAYS FROM INVOICE DATE.

SC DHEC Attn: Bureau of Finance PO Box 100103 Columbia, SC 29202-3103

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Wastberry, Tina CH.02 Initials Date Prepared By Approved By C7508 ColumnWrite ® O WILSON JONES nusice Poid Bal 5e Dog Water DHEC Fec 18 44 164 4500 20061 64508 1786 276.00 844 40 .00 18:4 1044 646570 46 00 8 24 10 4 在日 646334 00 10= 18 34 1798 1000 8-40 2084 12 13 19 20 21 22 23 25 26 27 28 29 31 3 3 33 34 3: 35 Э. 37 37 3€ 38 39 **4**0

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0 / 5 CabbagaStalk, Jermaine 143 \$ Cherry Vale Dr Initials Date Prepared By Approved By C WILSON JONES G7508 ColumnWrite ® Thodice Or Date C [#1

252-752-1849 250-752-1899 UH 33 Concor Inc Mail P.O. BX 2946 Greenville, NO 27836 Initials Date Prepared By Approved By C WILSON JONES TAVOICE DHE Paral unter Or Pate CK# 11 12 13 14 20 23 25 26 27 28 29 30 31 32 34 37

CH-23 Eaddy, Kathleer Initials Date Prepared By Approved By WILSON JONES 8 = TADOICE water 1313 III 731e 52 113/21 毕 40 1759 28 July 28 Jul 10. 1 Elec 7-8 210 1970 7-8 210 1970 1-150 140 1901/58 15 1-28 3107 2012 1-3 3007 2012 E == 18 4-19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 38 40